

REGIS LOISEL OR HIS LEGAL REPRESENTATIVES.

[To accompany bill H. R. No. 715.]

JANUARY 16, 1857.

Mr. PORTER, from the Committee on Private Land Claims, made the following

REPORT.

*The Committee on Private Land Claims have had under consideration the claim of Regis Loisel or his legal representatives, and report as follows:*

Your committee find that on the 25th of March, A. D. 1800, the lieutenant governor of Upper Louisiana granted to Regis Loisel a certain tract of land on the Missouri river, about twelve hundred miles from its mouth, including Cedar island; that the same was surveyed by Don Antonio Soulard, surveyor general for Upper Louisiana, and a plat made thereof; that all the papers and documents relative to the same were recorded in the recorder's office established for the recording of land titles in Upper Louisiana, according to the act of Congress in such cases made and provided. Your committee further find that in August, 1806, and in September, 1810, application was made to the board of commissioners to have said claim confirmed; that the same was rejected, and claimants required to furnish further proof. That in July, 1833, and November, 1834, the same was again presented for confirmation, and additional proof given; but the same was not confirmed, because said board held that they did not have jurisdiction of the case. Your committee further state, that over three hundred claims that were reported favorably on by the committee that acted under the acts of 1832-'33, and confirmed by the act of 1836, were rejected by the former board of commissioners; that said grant is absolute and unconditional; and that it appears from the same, and the petition to the lieutenant governor, that the said Loisel had established a fort on said tract of land in the Indian country, at his own expense, and that he had rendered important services to his government in discovering and exploring the Indian country and establishing amicable relations between them and his government; that in so doing he had suffered heavy losses. Your committee state that, from the petition to the lieutenant governor, the grant by him, and the survey by the surveyor of Upper Louisiana, and the evidence taken before the board of commissioners, and now of record, they are satisfied that said petitioner's grant and survey were made in good faith and are genuine. Your committee are of opinion

that from the stipulations of the treaty by which we acquired Louisiana, and the decisions of the Supreme Court of the United States in regard to these inchoate Spanish titles, that rights were vested in the said Loisel; that justice and good faith on the part of this government require that said rights should be protected, and that said claim should be confirmed to the said Loisel or his legal representatives. The 3d article of the treaty of the 30th April, A. D. 1803, by which France ceded to the United States the Louisiana territory, provides that "the inhabitants of the ceded territory shall be incorporated in the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and in the mean time shall be maintained and protected in the free enjoyment of their liberty, property, and religion which they possess." (See Laws United States at Large, vol. 8, page 202.)

In the case of Chouteau's heirs *vs.* the United States, (9 vol. Peters' U. S. Reports, page 137,) Judge Marshall says: "The lieutenant governor was also a sub-delegate, and as such was authorized to make inchoate grants. They are property, capable of being alienated, of being subject to debts, and is as such to be held as sacred and inviolate as other property." If Judge Marshall is right that these inchoate grants are *property*, then they are protected by treaty; and when the inhabitants of the ceded territory were incorporated into the United States, we were bound by the treaty to complete their titles. Our national honor demands it. It cannot be that the United States will violate the treaty, and confiscate the lands of the inhabitants in the ceded territory. In the case of Delassus *vs.* the United States, (9th Peters, page 117,) Judge Marshall says: "The stipulations of the treaty ceding Louisiana to the United States affording that protection or security to claims under the French or Spanish governments to which the acts of Congress refer, are in the first, second, and third articles. They extend to all property until Louisiana became a member of the Union, into which the inhabitants were incorporated as soon as possible, and admitted to all the rights, advantages, and immunities of citizens of the United States. The perfect inviolability and security of *property* is among these rights. The right of *property* is protected and secured by the treaty; and no principle is better settled in this country than that an *inchoate title to land* is property. This right would have been reserved independent of the treaty. The sovereign who acquires an inhabited country acquires full dominion over it; but this dominion is never supposed to divest the vested rights of individuals in property. The language of the treaty ceding Louisiana excludes any idea of interfering with private property. The concession to the petitioner was legally made by the proper authorities. A grant or concession made by the officer who is by law authorized to make it, carries with it *prima facie* evidence that it is within his power. He who alleges that an officer intrusted with an important duty has violated his instructions, must show it."

And they herewith report a bill confirming said grant or concession.